

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Clarke et al

Serial No. 09/976,987

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Title: Gas-permeable Membrane

Mail Stop Issue Fee, Commissioner for Patents, Washington, DC 20231

Group Art Unit: 1772

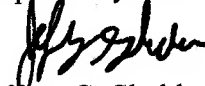
Examiner Rhee, Jane J

**Comments on Statement of Reasons for Allowance (37 CFR 1.104(e))**

In the Examiner's Reasons for Allowance the column and line references are no doubt to USP 5,160,768 (Antoon). As the Examiner's Reasons correctly state, this reference, alone or in combination with other references, fails to disclose the criticality of the pore size characteristics of the microporous film which are set out expressly in claim 20 and in other claims, or which result from the preparation of the microporous film in the way defined in claim 1 or in other claims. However, the statement by the Examiner that "the prior art fails to teach or suggest that the pores in the microporous film have an average pore size of less than 0.24 micron and greater than zero" needs to be considered in the light of the statement on page 3, lines 8-12, of the Appeal Brief mailed September 29, 2003, that the independent claims require that the pores have an average pore size of less than 0.24 micron, but "this requirement is not in itself a sufficient definition, and Applicants do not contend, for the purposes of this appeal, that it is important to the rejections of the claims", and the allowance of the claims over the prior art following consideration of that Appeal Brief.

Moreover, there are other features in the independent claims, and features in dependent claims, that render the claimed invention patentable.

Respectfully submitted,



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